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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,054	06/24/2004	Migaku Suzuki	930055-2029	9171
7590	02/25/2009		EXAMINER	
Ronald R Santucci Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151			ANDERSON, CATHARINE L	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/500,054	<b>Applicant(s)</b> SUZUKI ET AL.
	<b>Examiner</b> Lynne Anderson	<b>Art Unit</b> 3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 November 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-36 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-36 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date: _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application Paper No(s)/Mail Date _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 11/17/08 have been fully considered but they are not persuasive.
2. In response to the applicant's argument that support for the amended subject matter can be found in the instant application, it is noted that the figures do not support the limitation "substantially all longitudinal cross-sections of the trap portion are through uninterrupted portions of said absorptive body". In Figure 1, for example, the trap portion 13B includes a longitudinally extending section between the edge of the absorptive body 12 and the seal 16 that forms the edge of the trap portion 13B. A longitudinal cross-section of the trap portion 13B taken between the seal 16 and the edge of the absorptive body 12 would not include any portion of the absorptive body. Therefore, the claimed limitation is not supported by the present specification. Paragraph [0089] of the instant application does not explicitly disclose substantially all longitudinal cross-sections of the trap portion are through uninterrupted portions of said absorptive body, and therefore also does not support the claimed limitation.

### ***Specification***

3. The amendment filed 17 November 2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Substantially all longitudinal cross-sections of the trap portion being through uninterrupted portions of

the absorptive body is not supported by the present specification. Since there are an infinite number of cross-sections of the trap portion, not every one will include the absorptive body. For example, a cross-section of the trap portion 13B shown in Figure 1 of the present specification take between the sealed edge 16 and the edge of the absorptive body 12 will not include any of the absorptive body 12. Therefore, not all cross sections of the trap portion have the absorptive body, as claimed, and the claimed limitation is considered to be new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Substantially all longitudinal cross-sections of the trap portion being through uninterrupted portions of the absorptive body is not supported by the present specification. Since there are an infinite number of cross-sections of the trap portion, not every one will include the absorptive body. For example, a cross-section of the trap portion 13B shown in Figure 1 of the present specification take between the sealed edge 16 and the edge of the absorptive body 12

will not include any of the absorptive body 12. Therefore, not all cross sections of the trap portion have the absorptive body, as claimed, and the claimed limitation is considered to be new matter.

***Response to Amendment***

6. The amendment filed 17 November 2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Substantially all longitudinal cross-sections of the trap portion being through uninterrupted portions of the absorptive body is not supported by the present specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claim1-17, 20-22, and 36 rejected under 35 U.S.C. 102(e) as being anticipated by Wada et al. (6,416,500).

9. Wada discloses an absorptive product comprising an absorptive body 3b, as shown in figure 1, and a liquid impermeable trap portion 1. The absorptive body 3b

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overlaps the trap portion, as shown in figure 1, and is held within a pocket S within the trap portion, as shown in figure 3. The trap portion 1 is formed of a backup sheet 2. A cross-section of the trap portion 1 comprises the absorbent body 3b, as shown in figure 3.

10. With respect to claim 2, the trap portion 1 is formed of a liquid impermeable sheet, as disclosed in column 3, lines 24-25, which overlaps the absorptive body 3b, as shown in figure 1.

11. With respect to claim 3, the trap portion comprises two layers 2, as shown in figure 3, which are a backup sheet and an impermeable trap sheet, and further comprises an opening 4.

12. With respect to claims 4 and 5, the opening 4 extends in both the longitudinal and width directions of the absorptive body 3b, as shown in figure 8.

13. With respect to claim 6, the absorptive body 3b is located on either side of the opening 4, as shown in figure 1, and therefore straddles the opening.

14. With respect to claim 7, the absorptive body 3b has a continuous aperture 11, as shown in figure 5.

15. With respect to claim 8, the sheet 2 has a pair of flaps f3 and f4, as shown in figure 3, which form the trap portion.

16. With respect to claim 9, the trap portion 1, made up of sheets 2, is positioned on both of the width-directional sides of the absorptive body 3b, as shown in figure 3.

17. With respect to claim 10, a guiding member 9 provides a groove for guiding liquid to the absorptive body 3b, as shown in figure 3.

18. With respect to claim 11, the trap portion is formed from a liquid impermeable sheet 2, as disclosed in column 3, lines 24-25, and has a penis-guiding section 4.
19. With respect to claim 12-14 and 21, the trap portion comprises two layers 2, as shown in figure 3, which form an inner bag and an outer bag. The inner bag 2 has a folded portion 6 that can evaginate, as shown in figure 3.
20. With respect to claim 15, dislocation members 17 prevent the absorptive body 3b from dislocating, as shown in figure 3.
21. With respect to claim 16, a pair of elastic members 15 and 8 are provided in the right and left side edges of the sheet 2, as shown in figure 1.
22. With respect to claim 17, the absorptive body 3b has a non-woven substrate 3a and comprises multiple liquid-absorbing portions, as shown in figure 3.
23. With respect to claims 20 and 22, the methods disclosed merely claim the formation of the claimed invention. Therefore, the formation of the finished products disclosed by Wada fulfill the limitations of the claims.
24. With respect to claim 36, the pocket is formed of the backup and trap sheets 2 and a seal therebetween, as shown in figure 3.

***Claim Rejections - 35 USC § 103***

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 18-19 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wada et al. (6,416,500) in view of Kolb (4,415,643).
27. Wada discloses all aspects of the claimed invention with the exception of the absorbent body comprising 50-95% superabsorbent and having a hydrodisintegrative characteristic. Kolb teaches an absorbent body for an absorbent article comprising at least 50% superabsorbent, as disclosed in column 2, lines 40-41, which allows the absorbent body to disintegrate in water so it may be flushed, as disclosed in column 1, lines 47-58. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the absorbent article of Wada with the absorbent body of Kolb to allow the article to be flushable.
28. Claims 23-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wada et al. (6,416,500) in view of Cohen (5,649,913).
29. Wada discloses all aspects of the claimed invention with the exception of underpants to which the absorptive product is attached. Wada shows, in figure 6, the use of the absorptive product on a user wearing a garment. Cohen teaches the use of underpants to hold an absorptive product, as shown in figure 1. The underpants are provided with a fitting section for attachment of the absorptive product, and the opening of the absorptive product faces the inside of the underpants, as shown in figure 1. Use of the absorptive product with underpants allows the absorptive product to be securely held in place while it is worn. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the absorptive product of Wada in combination

with the underpants of Cohen to allow allows the absorptive product to be securely held in place while it is worn.

***Conclusion***

30. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./  
Examiner, Art Unit 3761

/Tatyana Zalukaeva/  
Supervisory Patent Examiner, Art Unit 3761